

Permit Cond. Number	Permit Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		<b>Operations and Maintenance Contract</b> Submit a signed operations and maintenance contract from a licensed septic contractor prior to final of building permit. Contract must include: <ul style="list-style-type: none"> <li>• Statement that if either party fails to comply with the contract EHD will be notified.</li> <li>• Effluent quality reports shall be submitted to EHD bi-annually.</li> <li>• EHD shall be notified at each renewal term, and a contract shall be submitted to EHD.</li> <li>• All testing requirements in Interim Ordinance 5093, and other county, state and federal regulations shall be complied with.</li> </ul> <b>(Environmental Health)</b>	Submit a signed operations and maintenance contract from a licensed septic contractor to EHD for review and approval, prior to final of building permit.  All lab results and service reports shall be submitted to the EHD on a bi-annual basis.  All renew contracts shall be submitted to EHD for review and approval.	CA Licensed Engineer /Owner/ Applicant	Submit contract prior to building permit final.  Operations and Maintenance Contract is an ongoing condition	
		<b>Deed Notice – Alternative Wastewater Treatment System</b> The applicant shall record a deed notification with the Monterey County Recorder for parcel 241-052-001-000 with the approved language indicating that an alternative onsite wastewater treatment system is installed on the property. Contact EHD for specific wording to be included on the deed notification.	Contact EHD for specific deed notice wording.  Record deed notice.	CA Licensed Engineer /Owner/ Applicant	Record deed notice prior to final of building permit.	

Exhibit 3

WHEN RECORDED MAIL TO:  
Monterey County Health Dept.  
Division of Environmental Health  
Environmental Health Review  
1270 Natividad Rd.  
Salinas, CA. 93906

THIS SPACE FOR RECORDER'S USE ONLY

TITLE OF DOCUMENT  
CONDITIONAL WASTEWATER TREATMENT AND  
DISPERSAL SYSTEM AGREEMENT

Document Instructions:

*Property owner to provide required information below and sign document before a Notary Public.*

*Document is to be notarized on the form below.*

*The signed document is to be recorded with the County of Monterey Recorder's Office. Recorder's copies of the document shall be distributed to property owner, Monterey County Health Department and the manufacturer's authorized servicing agent.*

Subject Parcel: Monterey County Assessors Parcel Number \_\_\_\_-\_\_\_\_-\_\_\_\_

The Monterey County Health Department, Environmental Health Division has determined that a standard onsite wastewater system for the subject parcel cannot meet minimum public health requirements. The Environmental Health Division has approved the installation and use of a specific wastewater treatment system suitable for conditions affecting subject parcel. A record of septic permit including the name and model number of the treatment unit is on file with the Environmental Health Division.

Property owner agrees that the subject parcel shall be held, occupied, sold and conveyed subject to the following restrictions and conditions which shall run with the real property and be binding upon all parties having any right, title or interest in said property.

Owner agrees to operate the wastewater treatment system in accordance with the manufacture's instructions and all applicable Monterey County regulations.

Subject parcel shall be subject to future federal, state or local laws and ordinances regarding the permitting, operation and maintenance or monitoring of alternative/enhanced on site wastewater systems.

Owner agrees to enter into and maintain in effect a maintenance contract with the manufacturer of the system or a company certified through the manufacturer for purposes of scheduled inspection and maintenance of the system per manufacturer's specification

and any National Sanitation Foundation (NSF) standards consistent with NSF approval of the treatment system. The maintenance contract shall include an alarm service so that the owner may be notified of any breakdown or failure of the treatment system.

The provisions of this Declaration are declared to be specifically enforceable through this recorded document and applicable Monterey County ordinances adopted pursuant to the permitting and operation of an On-site Advanced Wastewater Treatment System.

In the event that it becomes necessary for the County to commence an action of law to enforce any of the conditions or restrictions contained herein, the County shall be entitled to recover reasonable attorney's fees and costs, as may be determined by the court, from the property owner against whom such action is maintained. This provision shall be deemed to be accepted and agreed to by any person to whom any lot herein described shall be conveyed.

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date

Print Property Owner's Name: \_\_\_\_\_

Property Physical Address: \_\_\_\_\_

Assessor's Parcel Number: \_\_\_\_\_

STATE OF CALIFORNIA

COUNTY OF MONTEREY} ss.

On \_\_\_\_\_ before me, \_\_\_\_\_  
(here insert name  
and title of the officer), personally  
appeared \_\_\_\_\_

\_\_\_\_\_, personally known to me (or  
proved to me on the basis of satisfactory evidence) to  
be the person(s) whose name(s) is/are subscribed to  
the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s), or the  
entity upon behalf of which the person(s) acted,  
executed the instrument.

COPY

**TRIEBSCH & FRAMPTON**

ROBERT E. TRIEBSCHE  
RICHARD K. FRAMPTON  
J. SCOTT DORRUS  
CORY B. CHARTRAND  
MICHAEL G. DINI  
JAMES R. McDADE

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April 16, 2008

Mr. Mike Novo  
Planning Director  
Monterey County Planning Dept.  
168 West Alisal Street, 2<sup>nd</sup> Floor  
Salinas, CA 93901

**Re: PLN 050447/Reynolds (Kashfi)**  
**74 Corona Road, Carmel Highland**

Dear Mr. Novo:

Please be advised that Dr. John Willson and Mr. Gwyn De Amaral have retained our office concerning the matter of the recently continued appeal they have lodged against the November 9, 2006 Zoning Administrator's approval of the above-referenced application. Their appeal was lodged under the authority set forth in Monterey County Zoning Coastal Administrative Plan – Title 20, Section 20.70.060 Revocation. Please submit the letter to the Board of Supervisors as part of the appellant's package of material.

The appeal should be granted and the approval overturned for two reasons as follows:

1. The requirements for approval set forth in Ordinances #5086 and #5093 apply and the project does not meet said standards; and
2. The California Environmental Quality Act (CEQA) requires an initial environmental study and an Environment Impact Report (EIR) for this project and neither have been prepared.

**Ordinances #5086 and #5093**

This letter is intended to supplement my clients' letter dated April 1, 2008, which does an outstanding job of describing how the approval of the project is in direct violation of the County of Monterey Interim Ordinances #5086 and #5093.

It appears that Interim Ordinance #5086 was designed to provide a singular exemption for the subject project. Interim Ordinance #5093 was designed to extend Ordinance #5086 and to provide a procedure for approving projects already in process when Ordinance #5086 was adopted.

Mr. Mike Novo  
April 16, 2008  
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The requirements of Section 5, D, adopted by Interim Ordinance #5093 which adds Section 5, D, to Interim Ordinance #5086 are absolutely clear and are non-waiveable. Section 5. D. 1. a., (5) and (6) clearly require three (3) soil borings and/or soil corings to a minimum of 70 feet below ground surface to characterize the soil and determine if there are fractures, cracks or continuous channels in the soil or formations at these depths. If there are no fractures, cracks or continuous channels, a 100 foot setback applies, however, if there are such soil formations, a 250 foot setback is required. Since no borings have been conducted as yet, there is no basis to determine if the project setbacks comply with the new County requirements.

The requirements set forth in Ordinances #5086 and #5093 are applicable to this project for the following reasons:

At its March 20 and 21, 2008 meeting in Salinas, the California Regional Water Quality Control Board Central Coast Region (RWQCB) did pass Resolution R3-2008-0020 which approved the County's request for an exemption from the Basin Plan to allow an engineered onsite wastewater system and waiver of wastewater discharge requirements. It should be noted that said resolution only approved an engineered system and nothing more.

During this meeting, there was a long period of questions from members of the board to both the staff of the RWQCB and the County staff. The board members expressed concern about the suitability of the site considering the close proximity of the well to this discharge system and seven other surrounding septic system bordering the 2/3 acre site.

However, the RWQCB's attorney told the board that they were only asked to approve a very narrow issue and that was the engineered onsite wastewater system. The RWQCB approved this, but did not give blanket approval to the whole project, i.e. the well. Correctly, the RWQCB reiterated that it was the County's duty to ensure that other aspects of the project meet health and safety standards.

With the printed agenda of the RWQCB's meeting in Salinas on March 20 and 21, 2008, there is a staff report prepared for this proposed resolution. The last paragraph on page 2 states "the proposed waiver of waste discharge requirements is subject to a list of conditions as outlined in paragraph 1 of the resolution." One of the primary conditions is that the discharger comply with all county ordinances. Page 4, Section 1, (b) states "*the discharger shall comply with all Monterey County ordinances and permit conditions (including Section 2 of County Ordinance #5093) and nonstandard permit conditions.*" It should be noted that Section of County Ordinance #5093 contains the requirements for the three borings to determine setbacks of septic systems from the well. Any uncertainty about whether County Ordinance #5093 applies was

resolved when the RWQCB made its approval subject to meeting the requirements of Ordinances #5086 and #5093.

Ordinance #5093 sets forth various setback requirements which presumably are based on the best scientific knowledge at the time it was adopted. That ordinance requires that three (3) boring samples be taken in order to determine the appropriate setback requirements according to the County's own standards. As has been previously stated, those boring samples have not been taken so there is no way for the County to apply a setback standard and approve the project. In addition, the closest septic distribution box is located within 90 feet of the applicant's well (Judge Silver). County staff has interpreted the setback requirements to be 50 feet since it is a septic distribution box. The RWQCB has stated in two separate letters that they strongly disagree with that position and feel that there should be at least a 100 foot setback. There is no indication in the staff report as to why this setback requirement is being waived. As stated previously, the County's own standards in Ordinance #5093 could require a setback of as much as 250 feet.

#### **CEQA**

Interim Ordinance #5086 at Section 5, A, requires that an applicant be required to demonstrate that the project will have less than a significant direct and cumulative impact to surface and ground water resources and such applications are subject to CEQA.

A categorical exemption under CEQA is a qualified exemption. It cannot be used when the cumulative impacts of a project are significant or if there is a reasonable possibility that the activity will have a significant negative effect on the environment. If the attempt to exempt this singular project from the provisions of Interim Ordinance #5086 is allowed to stand, then that does not mean that the standards set forth for an approval under Interim Ordinance #5093 should not apply. The findings and declarations section in Interim Ordinance #5093 along with the findings and declarations under Ordinance #5086 contain a plethora of language about the current and immediate threat to public health, safety and welfare by permitting additional onsite wastewater disposal systems on individual lots given the existing site conditions. Given the alarming language set forth in those findings, it is apparent that the County has determined that there is a reasonable possibility that the construction of a single-family residence will have a significant negative effect on the environment in the area. Based on that finding, it is then appropriate that an environmental initial study be conducted and a full environmental impact report conducted thereafter. If in fact the soil structure surrounding the subject project is fractured and/or cracked with continuous channels, there will be a significant negative effect as set forth by the County in its own Interim Ordinance #5093.

The requirement for an EIR is mandated by the CEQA, Article 5, Section 15064, Determining the Significance of the Environmental Effects Caused by a Project. Section D, states *"In evaluating the significance of the environmental impact of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical change in the environment which may be caused by the project"*. Section 15064, F, (1) states that *"If a lead agency determines there is a substantial evidence of record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR."* Said another way, if the lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect.

Finally, Section D states *"after application of the principles set forth in Section 15064, (F) (G), and in marginal places where it is not clear whether there is substantial evidence where a project may have significant effect on the environment, the lead agency shall be guided by the principle that "If there is a disagreement among expert opinion supported by facts over the significance of an effect on the environment, the lead agency shall treat the effect as significant and shall prepare an EIR.""* In this case, there are the county experts who determined that the project was categorically exempt from CEQA, however there is evidence from the appellant's hydro geologist, Russell Juncal, indicating a reasonable probability that the approval of this project will be detrimental to the environment. Also the RWQCB letters of March 7, 2007 and May 7, 2007 give ample evidence of the probability of significant environmental damage.

If this well is allowed within 90 feet of a septic distribution box, there could be serious health risks and damages resulting in diseases from coliform bacteria such as E. coli, shigelloses, Proteus, pseudomonas, dysentery and cholera. These bacterium can be fatal to infants, young children, the elderly and chronically ill individuals. The setback requirements from the septic distribution box is therefore a prime subject to be addressed in a CEQA initial environmental review and EIR.

We respectfully request that our clients' appeal be granted and that the zoning administrators approval be overturned until such time as the applicant has conformed with Ordinances #5086 and #5093 along with California Environmental Quality Act requirements for an initial environmental review and environmental impact report if the review so indicates.

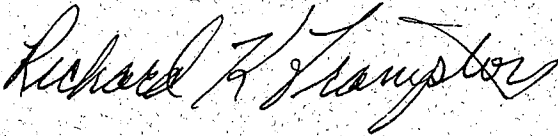
Mr. Mike Novo

April 16, 2008

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Yours very truly,

TRIEBSCH & FRAMPTON

A handwritten signature in cursive script, reading "Richard K. Frampton". The signature is written in dark ink and is positioned above the printed name.

Richard K. Frampton

RKF:jet

cc: John Bridges, Esq.  
Charles J. McKee,  
Monterey County Counsel  
Lew C. Bauman, Clerk  
Monterey County Board of Supervisors



April 1, 2008

Mr. Mike Novo  
Monterey County Planning Director  
168 West Alisal St., 2<sup>nd</sup> Floor  
Salinas, CA 93901

Sent via Fed Ex to all parties

Dear Mr. Novo,

We the appellants in The Kashfi matter (PLN 050447) are requesting that you reconsider the approval of this project. This request is submitted to you by authority of the Monterey County Zoning Coastal Administration Plan – Title 20 Section 20.70.060. Revocation.

Subsection A is quoted directly and reads as follows:

20.70.60 revocation

*A. Where one or more of the conditions of a Coastal Development Permit have not been, or are not being complied with, or when a Coastal Development Permit was granted on the Basis of False material information, written or oral, given willfully or negligently by the applicant, the Appropriate Authority may revoke or modify the Coastal Development Permit following public hearing to Chapter 20.84 of this title.*

Based on this section you and the Board of Supervisors have the authority and duty to deny/revoke the Kashfi Coastal Administrative Permit. This is based on the fact that a condition of the permit has not been complied with. As you know the RWQCB approved a Waiver of Waste Discharge Requirements for an Engineered Onsite Disposal System for the Kashfi development at their meeting of March 20, 2008. The Zoning Administrator approved a **test well only** in February, 2006. The permanent well for this property has not been approved, nor has the Coastal Administrative Permit for the project, including the well. Therefore you, the Director of Health (Richard Le Warne) and the Board of Supervisors have the duty to deny or revoke this permit.

In reference to the County of Monterey Interim Ordinance #5086, Section 1, J:

*J. The correspondence from the Regional Board, beginning with the RWQCB letter of March 7, 2007, arose in the context of the Board of Supervisors' consideration of an appeal from the County Zoning Administrator's approval of a project application (PLN050447/Reynolds (Kashfi)). The Regional Water Board has distinguished between the pending appeal and additional on site wastewater disposal systems in the Carmel Highlands area, deferring to the County to determine whether that project application pending on appeal is protective of public health and water quality, taking into account site conditions and other*

*factors, while not supporting other additional permits until a sufficiently detailed wastewater management plan is prepared. The County also desired to accord all parties the opportunity to be heard on the pending appeal.*

Again, no mention was made of a well approval. In section 2. **Applicability** Subsection B of ordinance 5086:

“In the event of a conflict in the ordinance any other existing County Ordinances and regulations, the provisions of this ordinance shall prevail.”

The duty to revoke this permit is **mandated** by Section 6 of Ordinance 5086 **Enforcement** Subsection A and B as quoted below:

#### Section 6. ENFORCEMENT

- A. It shall be the duty of the Director of Health and the Director of the Resource Management Agency of the County Of Monterey and all officers and employees of said County herein charged by law with the enforcement of this Ordinance , to enforce all provisions of this ordinance.*
- B. Any person, firm or corporation, whether as principal or agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for a fine of not more than a one thousand (\$1000.00) or by imprisonment in the County Jail of said County for a term not exceeding 180 days or both by such fine and imprisonment. Such person, firm , or corporation shall be deemed guilty of a separate offense for each day during any portion of which any violation of this Ordinance is committed, continues or is permitted by such a person, firm, or corporation, and shall be punishable as herein provided.*

In regards to the Monterey County Ordinance Number 5093, encompassing ordinance 5086 with modifications until October 01, 2008.: **(Section 2)** Amendment to regulation section 5.d of interim ordinance number 5086 is added to read in its entirety as follows:

*5 d.) **Soils Study.** A registered professional engineer, geologist or hydro geologist with requisite experience shall perform soils studies and percolation tests in compliance with section 15.20 of the Monterey County Code prior to the construction of a well. In addition there shall be 3 or more soil borings and/or soil corings as determined by the Health Department to a minimum depth of 70 feet below ground surface (bgs). The purpose of these soils borings/corings is to characterize the soil and determine if there are fractures, cracks, or continuous channels in the soils or formation at these depths.*

These 3 borings **were never performed** for the Kashfi project, and the ordinance does **not** provide for a waiver.

At the Monterey County Board of Supervisors meeting held on 02/26/08, Staff recommended the approval of a Coastal Administrative permit to PLN050447-Reynolds /Kashfi based on the finding and evidence and subject to conditions of approval. Since Ordinance 5093 became law on November 13, 2007 all the requirements for approval of a permit were in full force and effect as of that date. In the agenda of the 02/26/08 meeting of the Monterey County Board of Supervisors there is no mention in the recommendation, summary or discussion that the three required borings were not performed. Also in Exhibit A - Project Discussion of the agenda 02/26/08 there is no mention that the three **required** borings were not performed. In the last paragraph of Exhibit A of this agenda the following is quoted.

*“ Environmental Health Division has proposed several conditions of approval for this project, including the applicant obtain the Waiver of Waste Discharge Requirements from the RWQCB, which complies with all the regulations found in chapter 15.20 of the Monterey County Code, Monterey County Ordinances 5086 and 5093, the Prohibitions section of the Basin Plan, RWQCB, and the conditions of the waiver of Waste Discharge Requirement for this project; that the applicant provide for access and reimbursement for monitoring requirements of the Onsite Wastewater Treatment System; and that the applicant record a Deed Notification for intrinsic uncertainties regarding long term water sustainability of the onsite well (condition #17,18 and 19) “*

It can be discerned that this proposed project does not meet all of the conditions for approval; namely, Monterey County Interim Ordinance 5086 and 5093; specifically the non-performance of the 3 required borings, as well as the Prohibition section of the RWQCB Basin Plan dealing with setbacks from wells.

Section 5D of Interim ordinance 5086 which is incorporated into ordinance 5093 section 6B states:

*“ B) A 250- foot setback to wells /water sources from onsite wastewater treatment systems will apply if there are fractures ,cracks, or continuous channels in the soils or formation less than 70 feet bgs. “*

Since the Borings were not performed as enacted required, it must be presumed that based on the Declaration by the Board of Supervisors in enacting Ordinance 5093, that it was necessary for the protection of Public health Safety and Welfare for the Ordinance to take effect immediately, then therefore the 250 setback from sources of pollution is mandated. In essence without evidence that there are no fractures, cracks or continuous channels in the soils or formations less than 70 feet below ground surface, it must be presumed that fractures, cracks or continuous channels in the soils or formation are less

than 70 ft. bgs. If there is **any doubt** about the presence of the above, then the Basin Plan requires a 250 foot setback of a well from a source of pollution (multiple septic tanks) The RWQCB has supported the requirement for 250 ft setback in 2 letters to Mr. LeWarne. (March 07, 2007-May 07, 2007)

On page 3 of the RWQCB letter to Mr. LeWarne 05/07/07, Sections 5 and 6, the RWQCB strongly disagrees with Mr. LeWernes assertion that septic distribution boxes are not a part of the Septic System. They also disagree with Mr. LeWernes assertion that only a 50 ft. setback is necessary for a distribution box to a well. In fact, the adjoining parcel, owned by Judge Silver (APN 241 051 005) has an active distribution box which is 90 feet from the proposed well and therefore violates the Basin Plan.

It should be noted that in a letter 03/07/07 by RWQCB to Mr. LeWarne, it mentions a well completion report which is not the same as boring. A well report is based on the drillers' impressions of the underlying geology and is not scientifically rigorous and should not be used as a reference for determination of setbacks as outlined in the Basin Plan. The three borings which are **required** by County Ordinance 5093 should be the sole determinant of whether setbacks of 100 feet or 250 feet are necessary.

Again, we emphasize that there is no provision in ordinance 5093 for the waiving of the **requirement** for the three separate borings at the site. In fact, with this presentation of new evidence of the lack of the 3 borings, the Board of Supervisors, The Director of Health, Director of Resource Management Agency of the County of Monterey and involved officers and employees would be in violation of Ordinance 5093, and therefore would be breaking their duty to the residents of Monterey County if this Permit is issued.

The above named persons may also be subject to section 6B, of ordinance 5093 **Enforcement** which provides that any person violating this ordinance would be guilty of a misdemeanor and upon conviction would be subject to a fine, imprisonment or both.

The Board of Supervisors according to Section 20.70.060 of the Monterey County Zoning Coastal Implementation plan Title 20 has the authority, and in fact the duty, to deny or revoke this Coastal Administrative Permit since one or more of the conditions of approval outlined in County Ordinance 5093 has not been complied with. We strongly encourage you to re-evaluate this project and to advise the Monterey Board of Supervisors of the above-mentioned evidence, so that they may make the only lawful decision which is to deny this project until all the conditions are met.

John J Willsen , M.D.

Gwyn P De Amaral

Cc Charles Mc Kee, Cty Counsel  
Cont .next page

Dean D Flippo, District Atty . Monterey California  
Allen J Stroh, Division Chief of Environmental Health  
Richard Le Warne Div of Environmental Health  
Wayne Tanda , Director Of Resource  
Chair Armenta, Sup. Calcagno, Sup. Salinas, Sup Mc Cutchon, Sup Potter,  
Wayne & Beth Franks

TEST OF PIERON BY RUSSEL STERNAL, CALIC GEOLOGIST  
AND CALIC HYDROGEOLOGIST

CONCEALING  
REASONS TO DENY  
PROQB, EXTRA COST  
RESOLUTION

## Problems Due to Onsite Septic System

Carmel Highlands – Los Osos

### Factors Related to Impacts:

Density of systems greater than 1 per acre, i.e. cumulative effects

- Rainfall recharge
- Deep Water Wells
- Near Sensitive Biologic Areas
- Use of vertical pits and dry wells
- Poor soil sorptive conditions
- Fractured Bedrock

### Related Issues:

Problem recognized for many years

Study of Cumulative Impacts

Mitigation Plan

PV3-2008-0020

## History of Problem

On-site sewage disposal recognized as severe problem in 1970s:

Existing Septic System Findings – The December 1979 Draft Carmel Sanitary District Areawide Facilities Plan, Carmel Valley/Highlands Study Environmental Impact Report states:

“Septic tanks with leach fields are also used throughout the Carmel Highlands as the method of wastewater disposal. The geology of the area is such that there is a very thin layer of soil underlain by hard granitic rock. This geology is not very suitable for septic systems because discharge from septic tanks cannot be adequately filtered and treated by the soil. **Most of the lots in the Highlands which can safely accommodate septic systems have already been built upon.** Even some of these have experienced septic tank failures; raw sewage has surfaced above ground or has been discharged directly into the ocean. Many of the remaining lots cannot accommodate septic systems because of insufficient soil layer, inadequate size, or slopes that are too steep. The only means of providing sewerage services to new sites with inadequate facilities is to collect the wastewater and treat it somewhere else, or to combine lots so that there would be enough land for an adequate drainage field”.

## The Regional Board and Monterey County have recognized the serious problems associated with areas of high density on-site sewage disposal systems for many years

### From the May 2001 Regional Board Meeting:

- "Monterey County Department of Environmental Health (DEH) staff states that many developed lots in the Highlands are not suitable for on-site disposal of septic effluent."
- "Mr. Edward Vaughn, of the Highlands Sanitary Association, is working with Dr. Robert Curry, of CSU Monterey Bay, to study the Wildcat Creek watershed (in which the Highlands is located). They've found that Wildcat Creek flows year-round, while other nearby creeks dry up. Mr. Vaughn believes that septic systems may be supporting the flow. They are performing bacteriological sampling to support this hypothesis and will report their results to Regional Board staff."
- "Monterey County and this Regional Board are party to a Memorandum of Understanding (a.k.a. "MOU") concerning the regulation of individual sewage disposal systems. The MOU primarily addresses the regulation of new systems. Regional Board staff has confidence that, with respect to the regulation of new systems, Monterey County is performing well. However, the MOU does not specifically address investigations and responses to failing systems."

### Richard LeWarne, Monterey County Environmental Health Assistant Director, speaking to the Board of Supervisors on May 19, 2005:

- "There have been many areas in the county that have been developed prior to the 2.5 minimum where the density of septic systems to wells has led to a sharp rise of nitrates in adjacent water wells. Many of these situations have resulted in public health emergencies due to nitrate, bacteria and virus contamination from seepage." This well violates county health and safety codes and the well standards bulletin."



# Regional Board technical staff have clearly recognized the significant threats to public health and the environment due to this specific project

March 7, 2007 letter from M. Keeling to R. LeWarne:

Referring to the applicants' geologic report, "Figure 4- Geologic Cross Section A-A' in the WHA report depicts a geologic formation that is not conducive to a high density of on-site waste water disposal systems or domestic drinking water wells." ....A high density of on-site wastewater disposal systems in this area will likely result in surfacing of effluent and potential impacts to existing domestic water supply wells in the area that are pumping groundwater from fractured bedrock." *There is already a high density of on-site systems without the new proposed system, in fact, 6 existing systems are located within 250 feet of the well on the applicants' site and 2 of these utilize 50 foot deep seepage pits. Future replacement systems will almost certainly rely on deep pits due to available land constraints.*

"We believe a distribution box is neither a part of a septic tank or sanitary sewer line, but is part of the septic system leachfield and should be held to the minimum setback distance of 100 feet and not 50 feet. We suggest you contact DWR to verify their setback requirements." *The D box on the adjacent Silver property is approximately 90 feet from the proposed well. There is no record that DWR was ever contacted.*

"Separate recharge analysis provided by consultants for the project proponents and opponents indicate between 24% (does not include the proposed subject site disposal system) and 78% of the recharge for the area surrounding the subject property proposed water supply well is comprised of wastewater effluent from on-site disposal systems." *The 24% number calculated by the applicants' consultant still stands as the lowest estimated value of effluent recharge.*

"Based on the above discussion we do not believe the County's existing level of oversight for the continued permitting of on-site waste disposal systems in the Carmel Highlands is in conformance with prohibitions outlined in paragraphs 17 and 18 of the Basin Plan section VII.D.3.i." *Based on the recharge analysis above, the 4 adjoining less-than-one-acre properties with leachlines and septic wells, and the number of failed systems on these properties alone, the approval of this project heartily confirms the Board staff's conclusion*

"Consequently, we do not support the County's issuance of any additional on-site wastewater disposal system permits within the Carmel Highlands area until a sufficiently detailed wastewater management plan is prepared that addresses the shortcomings of this area with regard to its capacity to handle any additional on-site wastewater disposal systems." *This project is proceeding without addressing any of the shortcomings of the area.*